

STATE OF WASHINGTON
ETHICS ADVISORY COMMITTEE
OPINION 12-3

The Ethics Advisory Committee (EAC) is appointed by the Chief Justice of the state Supreme Court under General Rule 10, and consists of judges from the Court of Appeals, superior court, courts of limited jurisdiction, an attorney, and the Administrator of the Courts. This is the designated body to advise judicial officers on the application of the Code of Judicial Conduct. The Ethics Advisory Committee issues formal advisory opinions that are circulated publicly by the Administrative Office of the Courts. The opinions are available at a searchable Web site at www.courts.wa.gov, under 'Programs and Organizations.'

The Commission on Judicial Conduct (CJC) is separate from the EAC. The CJC is a constitutionally-created, independent agency of the judicial branch of state government which enforces the Code of Judicial Conduct, pursuant to WA State Const. Art IV, §31. Although EAC opinions are not binding on the CJC, a judge's compliance with an opinion by the EAC shall be considered as evidence of the judge's good faith. GR 10(b). The CJC has a searchable website at www.cjc.state.wa.us.

Question

May the spouse of a judicial officer contract with the court administrator for grant writing services?

The spouse of the judicial officer is an experienced grant writer. It would not be an employer/employee position. The spouse would be compensated on a contractually set hourly basis. The judicial officer's spouse would be working offsite and the focus would be juvenile court services, which the judicial officer has no involvement in.

The judicial officer does not have any supervisory role over the spouse or any oversight over the grants or applications processed. The judicial officer is not the presiding judge or the assistant presiding judge and is not on the court's executive committee. The court administrator is an employee who is supervised, hired, and fired by the judges and any action in this regard would be by majority vote.

Answer

CJC 1.2 provides in relevant part that a judicial officer shall avoid impropriety and the appearance of impropriety in order to promote public confidence in the judiciary. CJC 2.12(A) provides in pertinent part that a judicial officer shall require court staff and officials subject to the judicial officer's direction and control to act with fidelity and in a diligent manner consistent with the judicial officer's under the Code. Finally, CJC 2.13

requires that in making administrative appointments that they be exercised impartially and shall avoid nepotism.

A court administrator should not contract with the spouse of a judicial officer who serves in that court to perform juvenile court services grant writing. Even though the spouse of the judicial officer will be working offsite as an independent contractor, the fact that the court administrator is a court employee who reports to the judicial officers creates an appearance of partiality and the impression that the spouse was awarded the contract because of the relationship to the judicial officer.

Also see Opinion 05-6.